

# EXHIBIT 3

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

SUVERINO FRITH et al, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

WHOLE FOODS MARKET, INC.

Defendants.

Case No. \_\_\_\_\_

**AFFIDAVIT OF MACKENZIE SHANAHAN IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Mackenzie Shanahan, hereby declare:

1. I have personal knowledge of the facts set forth in this declaration and could and would testify competently to them.
2. I have been working as an employee for Whole Foods for approximately two and one half years. I am White.
3. I work at the Whole Foods located at 340 River Street in Cambridge, Massachusetts.
4. Before working at Whole Foods, due to the pandemic, I was on unemployment but was willing and able to work, and I wanted to give back to the community so I applied to and was hired to work at Whole Foods as an Amazon Prime Shopper.
5. Due to the onset of the COVID-19 pandemic, Whole Foods requires all its employees wear a mask to work.
6. Following the death of George Floyd and demonstrations springing up across the country in support of the Black Lives Matter movement, I heard that Whole Foods

workers in Seattle, WA, and Bedford, NH, had begun wearing Black Lives Matter masks to work at Whole Foods, and had been sent home.

7. In solidarity with these workers, I decided to participate and organize co-workers at my Cambridge location to wear the Black Lives Matter masks.
8. On June 26, I wore a Black Lives Matter masks, in solidarity with the movement, to show support for our Black coworkers, and to oppose discrimination faced by our Black coworkers.
9. Danny, one of the shift leaders at the store came and found me told me I could take the mask off or I had to go home. I refused to take it off and was sent home.
10. Since then I have worn the mask another five times and have been sent home without pay each time.
11. Every time I have been sent home for wearing the mask I have also received a “demerit” point. Due to this accumulation of points I recently received my first verbal warning.
12. I was surprised by Whole Foods disciplining and retaliating against us for wearing the masks, since it does not seem in accordance with its longstanding history of supporting social justice and has donated millions of dollars to organizations that support Black Lives Matter.
13. To me, when someone wears a Black Lives Matter mask it means that they care about the well-being of my Black employees. Disallowing Black Lives Matter masks to me, signals that Whole Foods does not care about my Black coworkers and it creates a more hostile environment to work in.

14. Whole Foods claims that it is disciplining us because the Black Lives Matter masks violate the dress code policy, which prohibits employees from wearing clothing with visible slogans, messages, logos, or advertising that are not company-related.
15. However, Whole Foods has not consistently enforced this policy. I have worn pins on my apron that I have worn for the last two years, including a sea shell that says "You are safe here," and another that says "Elevate your energy," and another that is a cat with a waiving arm, and another pin that is a smiley face with three-leaf clovers for eye. I was never spoken to or disciplined for these pins.
16. I believe that Whole Foods is selectively enforcing its dress code to discipline employees for wearing Black Lives Matter masks, by sending employees who wear the Black Lives Matter masks home without pay and assigning employees a disciplinary point for each time they are sent home.
17. Despite the warnings and the discipline I have received, I continued to wear my Black Lives Matter mask because I believe that Whole Foods is discriminating against my Black co-workers and other employees of color by refusing to support my Black co-workers.
18. I believe that Whole Foods is discriminating and retaliating against my Black co-workers by disciplining them for wearing Black Lives Matter masks, and against other workers who associate with them and are advocating for them, by disciplining us for wearing Black Lives Matter masks.
19. I have continued to wear my Black Lives Matter mask at work as often as possible to show support for my coworkers and to protest against Whole Foods'

discriminatory policy of selectively enforcing its dress-code as a means to prohibit Black Lives Matter masks.

20. However, I cannot wear it everyday and risk losing my job and forego all my wages. If I knew that I would not face any discipline or retaliation, I would wear the mask.

21. If I were to lose my job or forego wages, I would be worried about losing my apartment, missing my health care insurance payments, and missing my car insurance payments.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 07/18/2020

*Mackenzie Shanahan*

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Mackenzie Shanahan